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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,167	07/12/2004	Jilles Venema	NL020010	5387

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BRIARCLIFF MANOR, NY 10510

EXAMINER

MEDE, ESTEVE

ART UNIT	PAPER NUMBER
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2137

MAIL DATE	DELIVERY MODE
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08/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/501,167

Applicant(s)

VENEMA ET AL.

Examiner

Esteve Mede

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/11/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 2137

Specification

1. The disclosure is objected to because of the following informalities: The applicant failed to layout the specification according to 37 CFR 1.177(b) guidelines (see below for correct layout of the specification).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification does not provide for the section heading as described above.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 11 recites the limitation "the encryption control messages" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 11 discloses a computer program product comprising computer instructions for causing a secure device with an input for receiving the encryption control message to maintains a time value, incrementing the time value in response to reception of respective ones of the encryption control messages; decrypt the keys from the messages control a supply of the keys to a decoder dependent on the time value. For the claim to be statutory the program must be implemented in a computer readable medium (storage). The claim as read can be considered by one of ordinary skill in the art as software per se, and therefore does not appear to be implemented in a computer readable medium (storage).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchings et al. (US 6,898,285) in view of Diehl et al. (US 5,461,675).

Regarding claims 1, 9-11, Hutchings discloses a system for providing time dependent conditional access to information, the system comprising; a source sub-system arranged to provide successive keys encrypted in encryption control message (col. 4, lines 31-49; col. 5, lines 25-34) and the information in an encrypted form that is successively decryptable with the successive keys (col. 5, lines 14-16); a decoder for decoding the information, with an input for receiving the keys (col. 4, lines 50-53).

However Hutchings does not disclose a secure device is arranged for receiving the encryption control messages, decrypting the keys from the messages and supplying the keys to the decoder, the secure device maintaining a time value, the secure device being arranged to control the supply of the keys dependent on the time value, wherein the secure device is arranged to increment the time value in response to reception of respective ones of the encryption control messages.

Diehl discloses a secure device arranged for receiving the encryption control messages (see abstract), decrypting the keys from the messages and supplying the

Art Unit: 2137

keys to the decoder (see abstract), the secure device maintaining a time value (see abstract), the secure device being arranged to control the supply of the keys dependent on time value (see abstract), wherein the secure device is arranged to increment the time value in response to reception of respective ones of the encryption management messages (Col. 3, lines 49-62).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hutchings to include the use of incrementing a time value in response to receiving an encryption control messages instead of an encryption management messages in order to improve the robustness of the secure device, such that the secure device can provide a more secure way of descrambling encrypted (control) content for viewing, as encryption control messages are received more frequently than encryption management messages.

Regarding claim 2, Diehl discloses the system wherein the source sub-system is arranged to include time-stamps in the encryption control messages, the device being arranged to decide whether to supply the keys dependent upon a comparison between the time-stamps and the time value, the secure device being arranged to control a size of the update according to the time-stamp, with a limitation to increase in the time value (col. 2, lines 65-67; col. 3, lines 1-14).

Regarding claim 3, Diehl discloses the secure device being arranged to determine a difference between time stamp of a current encryption control message and a further time stamp of a preceding encryption control message and to increase the time value with the difference (col. 3, lines 37-62).

Regarding claims 4, and 6, Diehl discloses the encryption management messages comprising time stamps (col. 3, lines 50-52), the secure device being arranged to set the time value according to the time stamps in response to receiving the encryption management messages, conditional upon receiving increasing time stamps (col. 3, lines 49-62). The limitation of the source sub-system is arranged to transmit encryption management messages at a lower frequency than the said encryption control messages is an intrinsic property of the claimed invention as it is disclosed in the background of the applicant invention as a well known method (page 1, lines 20-21 of the applicant description).

Regarding claim 8, Diehl discloses the system wherein the secure device is arranged to disable supplying of the successive keys dependent on the time value when a predetermined number of the encryption control messages has been received after receiving a first one of the encryption management messages with a first one of the time stamps without receiving any subsequent second one of the encryption management messages with a second one of the time-stamps for a time that follows a time of the first one of the time stamps (col. 3, lines 15-62).

7. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchings et al. (US 6,898,285 B1) in view of Diehl et al. (US 5,461,675) further in view of Kamperman (US 5,991,400).

Regarding claims 5 and 7, Hutchings and Diehl discloses all the limitations of claim 5, except that the system arranged to process the content and encryption control

Art Unit: 2137

messages from a time shifting memory, and to substitute encryption management messages from a live stream for encryption management messages for the time of shifting memory.

Kamperman discloses the system arranged to process the content and encryption control messages from a time shifting memory, and to substitute encryption management messages from a live stream for encryption management messages for the time of shifting memory (col. 7, lines 1-67; col. 8, lines 1-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hutching and Diehl to include the use of a time-shifting memory in order to view previously stored program, such that recorded program can be viewed at a later time, as well as controlling viewing of previously recorded content to a time period.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esteve Mede whose telephone number is 571-270-1594. The examiner can normally be reached on Monday thru Friday, 8:30-5:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 2137

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Esteve Mede

EM

July 31, 2007


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER